

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 689**

---

**Introduced by Senator Hollingsworth**

February 27, 2009

---

~~An act to amend Section 1566.3 of the Health and Safety Code, and to amend Section 3003.5 of the Penal Code, relating to sex offenders. An act to amend Section 3004 of the Penal Code, relating to sex offenders.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 689, as amended, Hollingsworth. Sex offenders: ~~residency restrictions~~. *sexually violent predators: monitoring information.*

*Existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, requires every inmate who has been convicted of any felony violation of a registerable sex offense or an attempt to commit any of specified sex crimes, and who is committed to prison and released on parole, to be monitored by a global positioning system for life.*

*This bill would require the Department of Justice to develop and implement a fully Web-enabled system to provide the public, via an Internet Web site, with monitoring and mapping information showing the actual, physical location in real time of sex offenders who have been declared sexually violent predators, as specified.*

*Proposition 83 permits the Legislature, by a vote of  $\frac{2}{3}$  of the membership of each house and in accordance with specified procedures, to amend the provisions of the act.*

*This bill would therefore require a  $\frac{2}{3}$  vote.*

~~Existing law prohibits a parolee who served a term of imprisonment in state prison for any sex offense requiring registration, from, during~~

~~the period of parole, residing in any single family dwelling with any other person also required to register as a sex offender, unless those persons are legally related by blood, marriage, or adoption. Existing law excludes a residential facility that serves 6 or fewer persons from the definition of a single family dwelling for this purpose.~~

~~This bill would remove the exclusion of a residential facility that serves 6 or fewer persons from the definition of a single family dwelling and would, instead, allow a county or city to include a residential facility that serves 6 or fewer persons within the local definition of a single family dwelling for purposes of the restriction on sex offenders living together. This bill would also allow a county or city to prohibit a person released on parole, after having served a term of imprisonment in state prison for any offense for which registration as a sex offender is required, from residing, during the period of parole, in any single family dwelling with any other person also on parole after having served a term of imprisonment in state prison for any offense for which registration as a sex offender is required, unless those persons are legally related by blood, marriage, or adoption.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~<sup>yes</sup>. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 3004 of the Penal Code is amended to  
2     read:

3     3004. (a) Notwithstanding any other law, the parole authority  
4     may require, as a condition of release on parole or reinstatement  
5     on parole, or as an intermediate sanction in lieu of return to prison,  
6     that an inmate or parolee agree in writing to the use of electronic  
7     monitoring or supervising devices for the purpose of helping to  
8     verify his or her compliance with all other conditions of parole.  
9     The devices shall not be used to eavesdrop or record any  
10    conversation, except a conversation between the parolee and the  
11    agent supervising the parolee which is to be used solely for the  
12    purposes of voice identification.

13    (b) Every inmate who has been convicted for any felony  
14    violation of a “registerable sex offense” described in subdivision  
15    (c) of Section 290 or any attempt to commit any of the  
16    above-mentioned offenses and who is committed to prison and

1 released on parole pursuant to Section 3000 or 3000.1 shall be  
2 monitored by a global positioning system for life.

3 (c) Any inmate released on parole pursuant to this section shall  
4 be required to pay for the costs associated with the monitoring by  
5 a global positioning system. However, the Department of  
6 Corrections and Rehabilitation shall waive any or all of that  
7 payment upon a finding of an inability to pay. The department  
8 shall consider any remaining amounts the inmate has been ordered  
9 to pay in fines, assessments and restitution fines, fees, and orders,  
10 and shall give priority to the payment of those items before  
11 requiring that the inmate pay for the global positioning monitoring.

12 (d) *The Department of Justice shall develop and implement a*  
13 *fully Web-enabled system to provide the public, via an Internet*  
14 *Web site, with monitoring and mapping information showing the*  
15 *actual, physical location in real time of sex offenders who have*  
16 *been declared sexually violent predators, as defined in Section*  
17 *6600 of the Welfare and Institutions Code.*

18 ~~SECTION 1. Section 1566.3 of the Health and Safety Code is~~  
19 ~~amended to read:~~

20 ~~1566.3.—(a) Whether or not unrelated persons are living~~  
21 ~~together, a residential facility that serves six or fewer persons shall~~  
22 ~~be considered a residential use of property for the purposes of this~~  
23 ~~article. In addition, the residents and operators of such a facility~~  
24 ~~shall be considered a family for the purposes of any law or zoning~~  
25 ~~ordinance which relates to the residential use of property pursuant~~  
26 ~~to this article, except as provided in subdivision (h).~~

27 ~~(b) For the purpose of all local ordinances, a residential facility~~  
28 ~~that serves six or fewer persons shall not be included within the~~  
29 ~~definition of a boarding house, rooming house, institution or home~~  
30 ~~for the care of minors, the aged, or the mentally infirm, foster care~~  
31 ~~home, guest home, rest home, sanitarium, mental hygiene home,~~  
32 ~~or other similar term which implies that the residential facility is~~  
33 ~~a business run for profit or differs in any other way from a family~~  
34 ~~dwelling, except as provided in subdivision (h).~~

35 ~~(c) This section shall not be construed to prohibit any city,~~  
36 ~~county, or other local public entity from placing restrictions on~~  
37 ~~building heights, setback, lot dimensions, or placement of signs~~  
38 ~~of a residential facility which serves six or fewer persons as long~~  
39 ~~as such restrictions are identical to those applied to other family~~  
40 ~~dwellings of the same type in the same zone.~~

~~(d) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone. Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including, but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.~~

~~(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.~~

~~(f) Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.~~

~~(g) For the purposes of this section, "family dwelling," includes, but is not limited to, single family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.~~

~~(h) Notwithstanding any other provision of law, a city or county may adopt a local ordinance prohibiting a person released on parole after having served a term of imprisonment in state prison for any offense for which registration is required pursuant to Section 290 of the Penal Code, from residing, during the period of parole, in any single family dwelling with any other person also on parole after having served a term of imprisonment in the state prison for any offense for which registration as a sex offender is required pursuant to Section 290, unless those persons are legally related~~

1 by blood, marriage, or adoption. For purposes of this subdivision,  
2 a city or county may include a residential facility which serves six  
3 or fewer persons, including, but not limited to, a “sober living  
4 facility” within the definition of a “single family dwelling.”

5 SEC. 2. Section 3003.5 of the Penal Code is amended to read:

6 3003.5. (a) Notwithstanding any other provision of law, when  
7 a person is released on parole after having served a term of  
8 imprisonment in state prison for any offense for which registration  
9 is required pursuant to Section 290, that person may not, during  
10 the period of parole, reside in any single family dwelling with any  
11 other person also required to register pursuant to Section 290,  
12 unless those persons are legally related by blood, marriage, or  
13 adoption. For purposes of this section, a city or county may adopt  
14 a local ordinance to include a “residential facility that serves six  
15 or fewer persons,” including a “sober living facility,” within the  
16 definition of a “single family dwelling.”

17 (b) Notwithstanding any other provision of law, it is unlawful  
18 for any person for whom registration is required pursuant to Section  
19 290 to reside within 2,000 feet of any public or private school, or  
20 park where children regularly gather.

21 (c) Nothing in this section shall prohibit municipal jurisdictions  
22 from enacting local ordinances that further restrict the residency  
23 of any person for whom registration is required pursuant to Section  
24 290.